

§ 385.34 Changes to the Plan.

(a) The Plan shall be updated to incorporate approved changes to the Plan resulting from:

(1) Approval by the Secretary of the Army of a project to be implemented pursuant to § 385.13;

(2) Authorization of projects by Congress;

(3) Comprehensive Plan Modification Reports approved by Congress; or

(4) Other changes authorized by Congress.

(b) The Corps of Engineers and the South Florida Water Management District shall annually prepare a document for dissemination to the public that describes:

(1) The components of the Plan, including any approved changes to the Plan;

(2) The estimated cost of the Plan, including any approved changes to the Plan;

(3) A water budget for the Plan; and

(4) The water that has been reserved or allocated for the natural system under State law for the Plan.

(c) The Corps of Engineers shall annually provide to the Office of Management and Budget an updated estimate of total cost of the Plan, the costs of individual project components, and an explanation of any changes in these estimates from the initial estimates contained in the “Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,” dated April 1, 1999.

Subpart E—Ensuring Protection of the Natural System and Water Availability Consistent With the Goals and Purpose of the Plan

§ 385.35 Achievement of the benefits of the Plan.

(a) *Pre-CERP baseline water availability and quality.* (1) Not later than June 14, 2004 the Corps of Engineers and the South Florida Water Management District shall, in consultation with the Department of the Interior, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Environmental Protection Agency, the Department of Commerce, the

Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop for approval by the Secretary of the Army, the pre-CERP baseline to be used to aid the Corps of Engineers and the South Florida Water Management District in determining if existing legal sources of water will be eliminated or transferred as a result of project implementation as described in § 385.36 and memorialize the pre-CERP baseline in an appropriate document. The Corps of Engineers and the South Florida Water Management District shall consult with the South Florida Ecosystem Restoration Task Force in the development of the pre-CERP baseline.

(i) The pre-CERP baseline may express the quantity, timing, and distribution of water in stage duration curves; exceedance frequency curves; quantities available in average, wet, and dry years; or any other method which is based on the best available science.

(ii) The pre-CERP baseline shall include appropriate documentation that includes a description of the assumptions used to develop the pre-CERP baseline.

(iii) In addition to the development of the pre-CERP baseline, the Corps of Engineers and the South Florida Water Management District shall conduct other analyses that they deem necessary to determine if an existing legal source of water has been eliminated or transferred or if a new source of water is of comparable quality to that which has been eliminated or transferred in accordance with § 385.36.

(2) In accordance with § 385.18, the Corps of Engineers and the South Florida Water Management District shall provide opportunities for the public to review and comment on the pre-CERP baseline.

(3) The pre-CERP baseline shall be developed with the concurrence of the Secretary of the Interior and the Governor. Within 180 days of being provided the pre-CERP baseline, or such shorter period that the Secretary of the Interior and the Governor may agree to, the Secretary of the Interior and the Governor shall provide the Secretary of the Army with a written